

**STATE OF TENNESSE**  
**PUBLIC CHAPTER NO. 489**  
**SENATE BILL NO. 1706**

**By Overbey**

Substituted for: House Bill No. 1921

By Montgomery

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 32 and Title 7, Chapter 33, relative to special assessments and improvement bonds.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 7-32-101(a), is amended by deleting subdivisions (2), (5) and (7) and substituting instead the following:

(2) "Benefits received basis" means the apportionment of the applicable costs according to an equitable determination by the legislative body of the municipality of the special benefit received by the individual parcel of property from the public facility, taking into account any of the following factors: square footage of parcels and/or anticipated improvements, front footage, assessed value, type of use, business classification, property location, zones of benefit or a combination of such factors;

(5) "Public facility" means roads, streets, sidewalks, utilities, including electrical, gas, water and wastewater improvements, related improvements, parking facilities, parks and greenways, and any improvements for public safety, including police and fire stations;

(7) "Municipality" or "city" means any town, city, metropolitan government or county;

SECTION 2. Tennessee Code Annotated, Section 7-32-101(d), is amended by deleting such subsection in its entirety and substituting instead the following:

(d)(1) Notwithstanding any local charter provision or other law to the contrary, the legislative body of any municipality may approve the transfer to the municipality of a public facility or property to be improved as a public facility that has been acquired, improved or constructed by a third party, including a private entity, or enter into an agreement with a private entity under which such private entity agrees to pay all or a portion of the costs of a public facility being constructed by the municipality, provided that, in either case, the municipality reasonably anticipates that private investment of not less than twenty-five million dollars (\$25,000,000) will be made on property benefitted by the public facility.

(2)(A) The transfer of any public facility or agreement for a third party to pay costs relating to a public facility shall be documented by written agreement between the municipality and the other party or parties thereto, and the agreement shall be approved in substantially final form by the legislative body of the municipality. The agreement may provide that payment of any amounts under the agreement by the municipality may be contingent upon the availability of funds from the proceeds of bonds issued pursuant to § 7-33-121, and the agreement may also provide that the obligation of a private entity to pay a portion of the cost of a public facility may be reduced to the extent proceeds of bonds issued pursuant to § 7-33-121 are available for such purpose. The mayor of the municipality shall submit the proposed form of the agreement to the legislative body for approval. As a condition to entering into an agreement, the legislative body shall determine that the municipality and the citizens of the municipality will receive a public benefit from entering into such agreement. Before approving any such agreement and the assessment of any portion of any costs to be incurred thereunder pursuant to § 7-32-115, the legislative body of the municipality shall hold a public hearing relating to the proposed agreement and assessment.

(B) Notice of the public hearing shall be published by the mayor of the municipality in a newspaper of general circulation in the municipality at least two (2) weeks prior to the date of such public hearing. The notice shall include the time, place and purpose of the public hearing, and notice of how the proposed form of the agreement and a map of the area that is proposed to be subject to assessment pursuant to § 7-32-115 can be viewed by the public and the date such documents will be available for review, which shall be no later than one week prior to the date of the hearing. Additionally, the notice shall be mailed by the mayor of the municipality or the mayor's designee via certified mail to each owner of property proposed to be subject to assessment at the address of the owner on the records of the tax assessor of the county in which the property is located. Such notice may be combined with the notice of assessment required by § 7-32-115(b).

(3) The municipality may pay consideration for any transfer of a public facility pursuant to this subsection (d). The amount of the consideration and the terms of payment for the consideration shall be set forth in the agreement described in subdivision (d)(2); however, the consideration may not exceed the cost documented by the transferring party of acquiring, improving and/or constructing the public facility, including any costs incurred in the acquisition of the land on which the public facility is or will be located; provided, however, that the municipality may pay the appraised value for the acquisition of real property to be used in connection with public facilities to be constructed or improved by the municipality or other governmental entity. The consideration shall be payable in the manner agreed upon between the municipality and the

transferor or transferors of the public facilities and may be payable in the installments and at the times agreed upon by the municipality and the transferor or transferors. Additionally, a municipality may agree as additional consideration for the transfer of a public facility to reimburse the transferor or transferors or a public facility for expenditures made by the transferor or transferors to improve existing public facilities in order to facilitate the construction of the public facility being sold or to connect the public facility being sold to existing public facilities; however, the amount of the reimbursement may not exceed the actual documented cost of the expenditures.

(4) Notwithstanding any other provision to the contrary, §§ 7-32-102 – 7-32-114 shall not apply to the acquisition, improvement or construction of any public facilities pursuant to this subsection (d) or § 7-32-115(b) or any assessments relating to such acquisition, improvement or construction.

(5) The authority granted to municipalities by this subsection (d) shall not be construed to limit in any manner the authority of any municipality to acquire a public facility or any other property or enter into any agreement with another party in accordance with other law or any local charter.

(6) Any action taken by the legislative body under this chapter relating to any agreement entered into pursuant to this subsection or any assessments under § 7-32-115 or any matters relating thereto may be by resolution, adopted at a meeting, regular or special, of the legislative body at which the resolution is introduced, and shall take effect immediately upon adoption. Except as specifically provided in this subsection (d), the resolution need not be published or posted, or be subject to veto by the municipality's mayor, nor shall the resolution require for its passage more than a majority vote of all members of the legislative body then in office. Any property that is subject to assessment pursuant to § 7-32-115 shall be specifically identified in the resolution that is adopted approving any such assessment. In approving the property that is to be subject to assessment, the legislative body may remove, but not add, any properties to those identified in the map of the properties that are subject to public view prior to the public hearing required as described above.

SECTION 3. Tennessee Code Annotated, Section 7-32-115(b), is amended by deleting such subsection in its entirety and substituting instead the following:

(b)(1) If a municipality enters into an agreement pursuant to § 7-32-101(d), the legislative body of the municipality may apportion the costs incurred by the municipality under the agreement and all other costs authorized by this subsection among each parcel of property that is determined by the legislative body to directly benefit from the public facilities that are the subject of the agreement on a fair basis, as defined in § 7-32-101, and shall levy an assessment on each parcel of property of the amount so apportioned.

(2) In addition to amounts authorized to be apportioned and assessed pursuant to the preceding paragraph, the municipality may also apportion and assess the following costs in connection with such assessment:

(A) Costs incurred by the municipality or other public entity at the request of the other party to the agreement entered into pursuant to § 7-32-101(d) to pay costs of public facilities that will benefit the property subject to assessment;

(B) All costs relating to the issuance of bonds or other obligations pursuant to § 7-33-121 including interest expense and such amounts as the municipality deems necessary to pay capitalized interest on such bonds to the extent permitted by applicable law and to fund reserve funds to secure the payment of such bonds or other obligations; and

(C) All other fiscal, legal and administrative expenses of the municipality relating to the agreement entered into pursuant to § 7-32-101(d), any assessment under this chapter or any related financing. A municipality's determination that public facilities benefit the property subject to assessment under this chapter shall be conclusive.

(3) If a municipality levies assessments with respect to parcels of properties pursuant to this subsection, the municipality shall also be authorized to levy an annual assessment as to those parcels, without any further authorization from the governing body of the municipality, in the same proportion as the assessments are levied pursuant to subdivision (1) to pay the costs reasonably estimated by the municipality to be incurred in connection with the administration and collection of the assessments.

(4) The legislative body of the municipality is authorized to adopt such policies and procedures as such legislative body deems appropriate to administer assessments imposed hereunder, including, but not limited to, policies relating to the rate and methodology governing the implementation of the assessment. Such policies and procedures may also address such matters as the reapportionment of assessments upon the request of property owners, reallocation of assessments upon subdivision of property, credits against assessment payments based upon other available funds, including earnings on reserve funds, maintenance of an assessment roll and procedures for the prepayment of assessments.

(5) A municipality may levy a maximum assessment under this subsection based upon the estimated cost of the public facilities and other permitted costs being assessed, and, in such case, the amount of the assessment shall be reduced by the municipality once the actual costs are established by the municipality and may provide that assessments may become effective at different periods of time to take into account

when the costs being assessed will be incurred. The legislative body of the municipality may also provide that assessments shall only be effective upon any issuance of bonds or other obligations pursuant to § 7-33-121.

(6)(A) Each person owning property affected by the levy of an assessment shall receive written notice of:

(i) The method of apportionment of the assessment; and

(ii) The amount of the assessment allocated to the owner's parcel.

(B) The notice shall be delivered by certified mail to the address listed on the records of the tax assessor of the county in which the property is located.

(7) For purposes of apportioning and assessing costs pursuant to this subsection, §§ 7-32-116 through 7-32-118 and § 7-32-121(c) shall not be applicable.

SECTION 4. Tennessee Code Annotated, Section 7-32-129, is amended by deleting subsection (c).

SECTION 5. Tennessee Code Annotated, Section 7-32-133(b), is amended by deleting such subsection in its entirety and substituting instead the following:

(b) For an assessment levied pursuant to § 7-32-115(b), the municipality may permit payment of the assessment in installments, made not more frequently than monthly and amortized for a period not to exceed thirty (30) years from the date of acquisition and accruing interest at a rate to be determined by the municipality; however, the interest rate shall not exceed the maximum rate of interest permitted by law. Property owners at the time of the initial assessment shall enter into a written agreement detailing the terms of the installment payments pursuant to § 7-32-134.

SECTION 6. Tennessee Code Annotated, Section 7-32-138(a), is amended by adding the following sentence at the end of such subsection:

Alternatively, the municipality may collect any installments of any assessments that are past due in the same manner that the municipality is authorized to collect property taxes of the municipality.

SECTION 7. Tennessee Code Annotated, Section 7-33-121(a), is amended by deleting such subsection in its entirety and substituting instead the following:

(a) Notwithstanding any other provision of this chapter to the contrary, a municipality may issue revenue bonds in the manner provided in Title 9, Chapter 21, including Part 3, or enter into a loan agreement pursuant to Title 12, Chapter 10 with a public building authority to finance all costs and expenses permitted to be assessed pursuant to § 7-32-115(b) and/or refund or refinance bonds or other

obligations of the municipality that temporarily financed such costs and expenses. In such cases, all assessments received pursuant to Chapter 32 of this title by the municipality shall be deemed revenues for purposes of Title 9, Chapter 21 or shall be deemed revenues of a project for purposes of Title 12, Chapter 10. In such cases, the revenue bonds or loan agreement may be, but are not required to be, additionally secured by the full faith and credit of the municipality, in the manner provided in Title 9, Chapter 21 or Title 12, Chapter 10 for the incurrence of indebtedness by the municipality that is secured by the full faith and credit of the municipality.

SECTION 8. Tennessee Code Annotated, Section 7-33-121, is amended by adding the following language as subsection (e):

(e) A municipality is authorized to refund or refinance or otherwise cause the refunding or refinancing of any bonds or other obligations issued pursuant to this section in the manner provided in Title 9, Chapter 21; Title 12, Chapter 10; or Title 7, Chapter 53; as applicable. Without limiting the foregoing, a municipality may refund or refinance any bonds or loan agreements secured by the full faith and credit of the municipality and revenues received from assessments with bonds or a loan agreement secured only by such revenues. Upon any such refunding, the amount of assessment payments may be adjusted pursuant to policies approved by the municipality provided the amount of the assessment as adjusted does not exceed the maximum costs assessed by the municipality.

SECTION 9. This act shall apply to all agreements and assessments entered into or imposed pursuant to § 7-32-101(d) and § 7-32-115(b) on or after July 1, 2007.

SECTION 10. This act shall take effect upon becoming law, the public welfare requiring it.

**PASSED: June 3, 2009**

  
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RON RAMSEY  
SPEAKER OF THE SENATE

  
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KENT WILLIAMS, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 23rd day of June 2009**



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PHIL BREDESEN, GOVERNOR